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April 29, 2010

VIA FACSIMILE AND ECF

Hon. Claire C. Cecchi, U.S.M.J.
United States District Court
M.L. King Jr. Federal Building
50 Walnut Street
Newark, NJ 07102

Re: Taro Pharmaceuticals North America, Inc., et al. v. Synerx Pharma, LLC, et al.
Civil Action No. 09-3569 (JLL) (CCC)

Dear Judge Cecchi:

We, along with Schiff Hardin LLP, represent Defendants Synerx Pharma, LLC; Karalex Pharma, LLC and DPT Laboratories, Ltd. in the above-captioned litigation. We write with regard to the Proposed Joint Discovery Plan submitted yesterday and to request that the Court enter the discovery schedule proposed by Defendants.

Given that this case has been pending for nearly 10 months already, we urge the Court to adopt Defendants' schedule, which is a slightly expedited version of this District's Local Patent Rules, rather than accept Plaintiffs' approach. Although Plaintiffs' proposal tracks the time periods in the Local Rules, under Local Patent Rule 1.3, the time periods set forth in the Rules may be modified where, as in this case, it is appropriate to do so to reflect the circumstances of the particular case. Plaintiffs filed their Complaint on July 20, 2009, but given the gravity of Plaintiffs' statements about a lack of a "case or controversy," substantive progress has stalled to allow limited discovery addressed to this jurisdictional issue. Therefore, almost one year after the action commenced, initial disclosures have not been exchanged and general discovery has not commenced.

The limited discovery period closed February 22, 2010, and despite the fact that Plaintiffs at that time had more than sufficient information indicating the existence of a case and controversy, and despite a letter from Synerx's counsel setting forth the multiple bases for jurisdiction under Federal Circuit precedent, Plaintiffs waited until the

deadline for filing their motion to dismiss to announce that they would not, after all, contest jurisdiction. The only information Defendants have provided to Plaintiffs since the end of February was a reassurance that two pertinent facts had not changed since January 2010.

Synerx has FDA approval to market malathion and now wishes to have its rights declared so that it may resume marketing an important consumer product. Because Plaintiffs' actions have unnecessarily delayed this litigation for several months, Defendants respectfully request entry of their proposed schedule.

We are available for a conference at the Court's convenience to further explain Defendants' position.

Thank you for your consideration of this matter.

Respectfully submitted,

Karen Confoy

KC:jkf

cc: Counsel of record